

AMENDED IN SENATE JUNE 25, 2012

AMENDED IN SENATE MAY 29, 2012

SENATE BILL

No. 1197

Introduced by Senator Calderon

February 22, 2012

An act to amend Section 8344.5 of the Health and Safety Code, relating to crematories, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1197, as amended, Calderon. Crematories: burning of flags.

Existing law provides that a crematory regulated by the Cemetery and Funeral Bureau shall knowingly cremate only human remains in cremation chambers, along with cremation containers, items used for disease control, and personal effects of the deceased.

This bill additionally would authorize the cremation of ~~an American flag~~ *one or more American flags*, in accordance with specified federal law, ~~in conjunction with the cremation of human remains and other items described under existing law during the periods within one week before or after specified holidays. The bill would declare that it would not be construed to restrict or infringe upon any person's First Amendment rights, as specified.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 8344.5 of the Health and Safety Code is amended to read:

8344.5. (a) Except as provided in subdivision (b), a crematory regulated by the Cemetery and Funeral Bureau shall knowingly cremate only human remains in cremation chambers, along with the cremation container, personal effects of the deceased, and no more than a negligible amount of chlorinated plastic pouches utilized for disease control when necessary.

~~(b) In conjunction with the cremation of human remains and other items as described in subdivision (a), a crematory regulated by the Cemetery and Funeral Bureau also may cremate an American flag provided it is done in accordance with the provisions of subsection (k) of Section 8 of Title 4 of the United States Code.~~

(b) (1) A crematory regulated by the Cemetery and Funeral Bureau may also cremate one or more American flags, under the following conditions:

(A) Cremation of the flag or flags is in accordance with Title 4 United States Code section 8(k).

(B) Cremation of the flag or flags occurs within one week before or after any of the following:

(i) Memorial Day.

(ii) Flag Day.

(iii) Independence Day.

(2) Nothing in this subdivision shall be construed to attempt to restrict or otherwise infringe upon any person's right to free expression under the First Amendment of the United States Constitution.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that appropriate state agencies have clear direction with respect to the regulation of crematories, and that crematories operating under state law are adequately protected at the earliest possible time, it is necessary that this ~~bill~~ act take effect immediately.

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